

STATE OF VERMONT  
HUMAN SERVICES BOARD

In re	)	Fair Hearing No. 11,657
	)	
Appeal of	)	

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare to terminate her Food Stamp benefits based on increased family income. The issue is whether the income of the father of the petitioner's child should be included in the household's income.

FINDINGS OF FACT

1. The petitioner is the mother of a four-year-old child by a previous relationship and an infant daughter by the man with whom she is currently living. Prior to the birth of the infant on October 23, 1992, the petitioner received Food Stamps for herself and her older daughter based solely on their income (ANFC). Although the infant's father lived with her, the Department excluded his income from the household's eligibility calculations because he claimed that he purchased and prepared food separately from the petitioner and her daughter.

2. Following the birth of her second child, the Department notified the petitioner that the income of the infant's father had to be included to determine the household's eligibility for Food Stamps and that he could no

longer be considered a separate household.

3. The petitioner provided information to the Department showing that the infant's father earned gross monthly income of \$1,029.60. The Department added that figure to the petitioner's ANFC income of \$495.00 per month and concluded that the total, \$1,524.60, was in excess of the Department's "maximum gross income test" for Food Stamp eligibility, which is \$1,512.00 per month for a four person household.

4. On November 10, 1992, the Department mailed the petitioner a notice stating that as of December 1, 1992, the Food Stamp grant to herself and her older daughter would be terminated due to income in excess of allowed maximums. The petitioner appealed that decision and has received continuing benefits.

5. The petitioner does not dispute the figures used by the Department. Her appeal is based upon her belief that the infant's father has no obligation to support her or her older child and that they, at least, should be found eligible. She does not make a claim that either her second child nor that child's father should receive benefits.

6. The denial notice sent to the petitioner was not based on a Departmental determination that the infant's father shared in household food shopping and preparation. Although some ambiguous testimony was elicited by the Department on cross examination, it is found that the Department has not met

its burden of showing that its prior determination of separate purchase and preparation of food is currently incorrect.

7. The infant's father brings home about \$190.00 per week. He pays \$130.00 per month for health insurance, and pays on a \$408.42 per month child support obligation through weekly wage garnishment. He also contributes toward the rent, fuel, utilities, car and insurance payments. The petitioner feels that these expenses should be considered and deducted from his gross wages when their Food Stamp eligibility is determined.

ORDER

The Department's decision is affirmed.

REASONS

Financial eligibility for Food Stamps is determined by examining the income of persons in the household as that term is defined in the Department's regulations:

1. General Definition

A household is composed of one of the following individuals or groups of individuals provided they are not residents of an institution (except as otherwise specified in paragraph (e) of this section), are not residents of a commercial boarding house, or are not boarders (except as otherwise specified in paragraph (c) of this section):

- i. An individual living alone;
- ii An individual living with others, but customarily purchasing food and preparing

means for home consumption  
separate and apart from the  
others;

- iii A group of individuals who live together and customarily purchase food and prepare meals together for home consumption.

2. Special Definition

- i The following individuals living with others or groups of individuals living together shall be considered as customarily purchasing food and preparing meals together, even if they do not do so:

. . .

- C: Parent(s) living with their natural, adopted or step-child(ren) and such child(ren) living with such parent(s). unless at least one parent is elderly or disabled as defined in 271.2. If at least one parent is elderly or disabled, separate household status may be granted to the otherwise eligible parent(s) or child(ren) based on the provisions of paragraph (a)(1) and subject to the provisions of paragraphs (a)(2)(i)(A) and (a)(2)(i)(B) of this section. If the natural, adopted or stepchild is a parent of minor children and he/she and the children are living with his/her parent(s), the parent of the minor children, together with such children, may be granted separate household status based on the provisions of paragraph (a)(1) of this section and subject to the provisions of paragraphs (a)(2)(i)(A) and (a)(2)(i)(B) of this section and the certification period as required

by 273.10(f)(2).

. . .

F.S.M. § 273.1 (a)

Although it has been determined that the infant's father purchases and prepares his food separately, by virtue of the birth of that infant in October of 1992, he has attained a new status. The petitioner and her new child's father are indisputably parents living with their natural child. As neither makes claim to being elderly or disabled, they clearly fall within the groups of individuals who are "considered as customarily purchasing food and preparing them together, even if they do not do so" found at F.S.M. § 273.1(a)(2)(i)(C) above. Therefore, they must be considered a household under that Food Stamp regulations cited above.

In determining household income, the Department's regulations require that "household income shall mean all income from whatever source" excluding only items specifically listed in the regulations. F.S.M. § 273.9(b) Among those items specifically included by the regulations are earned income from the wages of an employee and unearned income from ANFC. See F.S.M. §§ 273.9(b)(1)(i) and (2)(i). The voluminous income exclusions do not include these two income sources. See F.S.M. § 273.9(c).

The regulations provide that "households which do not

contain an elderly or disabled member shall meet both the net income eligibility standards and the gross income eligibility standards for the Food Stamp Program." F.S.M. § 273.9(a) The gross income test requires that the household's countable income before deductions be computed with a gross income amount which is 130 percent of the Federal poverty level for a household of that size. For a four person household, that amount is \$1,512 per month. See Procedures Manual 2590C. If the gross income test is met, the household's income is then subjected to certain income deductions (standard, earned income, excess medical care, dependent care, shelter and utility deductions) to determine net income. F.S.M. § 273.9(d). That net income figure is computed with a figure that is 100 percent of the Federal poverty level to ultimately determine eligibility and benefit amounts. F.S.M. § 273.9(a). In this case, the petitioner's household's gross income of \$1524.60 was \$12.60 more than the maximum gross income standard. As such, the household is automatically excluded from further consideration for Food Stamp eligibility. Having "failed" the gross income test, they are not eligible for the deductions which might have been available to them under the net income test.

Based on the above reasoning, it must be concluded that both the Department's determination that the infant's father and his income must be a part of the household income

computations, and its determination that the household's gross income disqualifies it from Food Stamp eligibility are correct.

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